



# TEXAS ALCOHOLIC BEVERAGE COMMISSION

Post Office Box 13127, Austin, Texas 78711-3127 (512) 458-2500

Dick Durbin, Administrator

RECEIVED

August 2, 1993

AUG 03 93

The Honorable Dan Morales  
Attorney General of Texas  
Attention: Open Records Section  
P. O. Box 12548  
Austin, Texas 78711-2548

Opinion Committee

RD-641

FILE # MC-21599-93  
I.D.# 21599  
PM 8/2/93

Dear General Morales:

The Texas Alcoholic Beverage Commission has received the enclosed request under the Open Records Act for the results of an inspection. A copy of the inspection report is also enclosed.

Section 28 of the Bingo Enabling Act, V.T.C.S. art. 179d states that, "All applications, returns, reports, statements and audits submitted to or conducted by the commission and the governing body are available for public inspection." However, section 13c(d) of the Act, covering bingo manufacturers and distributors, states that, "The commission may examine the books and records of an applicant for a license or of a licensee. Any information obtained shall not be disclosed except as necessary to carry out the provisions of this Act."

As you can see from its date, the report is quite recent and is still being evaluated. However, it is very probable that administrative action will be taken against the licensee based on the report.

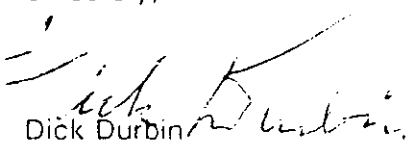
It would appear that either the entire report is confidential under Section 13c(d) of the Bingo Enabling Act or that everything except the second paragraph of Item 2 and the letter dated July 15, 1993 are confidential under that provision.

Given the confidentiality provision in Section 13c(d) of the Bingo Enabling Act, the requested information is covered by the exception contained in Section 3(a)(1) of the Open Records Act, V.T.C.S. art 6252-17a.

In addition, since it is anticipated that administrative action against the licensee will be taken by the commission as a result of this report, the report is excepted from public disclosure under Section 3(a)(3) of the Open Records Act.

If you have any questions, please call Robert C. Falls at 206-3280.

Sincerely,

  
Dick Durbin  
Administrator

Enclosure

# NORTON & BLAIR

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

FOURTH FLOOR

FIVE POST OAK PARK

HOUSTON, TEXAS 77027-3413

TELEPHONE (713) 961-8300

FAX (713) 961-1738

100 CONGRESS AVENUE  
AUSTIN, TEXAS 78701-4042  
TELEPHONE (512) 472-5997  
FAX (512) 472-5248

July 27, 1993

Ms. Jeannene Fox  
Director of Bingo  
Tobacco, Alcohol & Beverage Commission  
5806 Mesa Drive  
Austin, Texas 78731

VIA TELECOPY

Re: Cause No. 93-036146; Phil Reynolds d/b/a Texas Bingo  
Supply v. Daniel R. Moore, Daniel R. Moore, Inc. d/b/a  
Deidre Colello; In the 189th Judicial District Court of  
Harris County, Texas

Dear Ms. Fox:

Your agency recently conducted an inspection of a bingo distributor, Danny R. Moore d/b/a Moore Supplies and/or Daniel R. Moore, Inc. d/b/a Moore Supplies. On behalf of my client Texas Bingo Supply, and pursuant to the Open Records Act, I request all information obtained by your agency from the inspection of the above-referenced bingo distributor.

Two weeks ago my client obtained a temporary restraining order against Danny Moore and persons/entities associated with him. The hearing for the temporary injunction is set for August 6, 1993. It is possible that the information obtained by your agency will be relevant to the matters raised at the hearing. Therefore, I would appreciate a response to my request on or before Friday, July 30, 1993.

Thank you for your attention to this matter.

Very truly yours,

NORTON & BLAIR

  
Lori A. Hood

LAH:bw

cc: Mr. Dale Evans  
Tobacco, Alcohol & Beverage Commission  
Mr. Bob Falls  
Tobacco, Alcohol & Beverage Commission

